

**Thomas Jefferson to James Madison, August 12, 1801,
The Works of Thomas Jefferson in Twelve Volumes.
Federal Edition. Collected and Edited by Paul Leicester
Ford.**

TO THE SECRETARY OF STATE J. MSS. (JAMES MADISON)

Monticello, Aug. 12, 1801.

Dear Sir, —Doctr. Rose delivered me last night the letter with which you charged him, and I have thought it better to attend to it's contents at once before the arrival of the load of other business which this morning's post will bring. Pinckney's, Orr's, Livermore's, Howell's, Webster's, Murray's, Otis's, Graham's & Thornton's letters, with Wagner's sketch of an answer to the latter are all returned herewith. Reed's papers being voluminous have not been read. I thought a commission as District attorney had been forwarded to Howell: if so, his letter is not intelligible to me, where he says he is ready prepared to quit his office when a more deserving person shall be thought of. That he would have preferred himself to Barnes as judge is evident enough. Tho' I view Webster as a mere pedagogue, of very limited understanding and very strong prejudices and party passions, yet as editor of a paper and as of the Newhaven association, he may be worth striking. His letter leaves two very fair points whereon to answer him. 1. the justice of making vacancies in order to introduce a participation of office. 2. That admitted, the propriety of preventing men indecently appointed & not yet warm in the seat of office from continuing, rather than to remove those fairly appointed and long in possession. As to Goodrich and Bishop it would be like talking to the deaf to say anything to a man as immovably biassed as he is. Thornton's letter is the same I have seen before I left Washington. When we consider that our minister has to wait months & years for an answer to the most trifling or most urgent

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application to his government, there would be no indecency to decline answering so crude an application as this respecting the prize, which he does not know if it be prize or not, brought into Boston *as the newspapers say*. I think it better to avoid determining, with foreign ministers, hypothetical

cases. They may by stating possible cases, so employ us as to leave no time for those which are actual. The actual furnish occupation enough for our whole time. Perhaps the case of giving or refusing asylum for prizes may never arise. Yet if we predetermine it, we shall be led into all the altercation & discussion which would be necessary were we obliged to decide it. I think therefore the answer to Thornton might be that his letter being hypothetical presents two questions, calling for very different considerations, both of which it cannot now be necessary to determine. That both are founded on newspaper information only, which is too uncertain ground for the government to act on: and that so soon as certain information shall be received that any such case has happened and what the exact nature of the case is, we will do on it what shall be right. I have been reading Schlegel's pamphlet with great attention. It contains a great deal of sound information. He does not however prove that in cases uncontrouled by treaty, the nations of Europe (or a single one of them in a single case) have practised on the principle, as a principle of natural law, that free bottoms make free goods. His own facts shew that the principle practised on in the earliest times was that an enemy's goods in a friend's bottom are lawful prize: that on an attempt by the Dutch to introduce the other principle, it was overborne by Lewis XIV & by England, and the old principle adhered to. Still it does not follow but that a sound principle may have been smothered by powerful states acting on a temporary interest, and that we have always a right to correct ancient errors, & to establish what is more conformable to reason & convenience. This is the ground we must take.

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I shall rejoice to see Mrs. Madison, yourself & the class heroine here. Observe that the governor is at Richmond every other Saturday. He goes down this day & will be back on Tuesday. Accept assurances of my affectionate friendship.